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ABSTRACT

The new S. 118.13, Wisconsin Statutes, bans pupil discrimination in any curricular, extracurricular, pupil services, recreational, or other program or activity in the State of Wisconsin on the basis of sex; race; national origin; ancestry; creed; pregnancy; marital or parental status; sexual orientation; or physical, mental, emotional, or learning disability. Administrative rules, as embodied in chapter PI 9 of the Wisconsin Administrative Code, required each school district to have done the following by August 1, 1987: (1) review and revise its policies on nondiscrimination; (2) ensure a process to resolve complaints locally; and (3) follow through on compliance reporting procedures. Chapters of this guide are the following: (1) "Overview"; (2) "Administrative Rule"; (3) "Additional Definitions of Terms"; (4) "Meeting PI 9, Wis. Admin. Code" (contains an outline of requirements and examples of documentation); (5) "Questions and Answers"; and (6) "Resources (contains a list of names and telephone numbers to contact for assistance with complaints or technical assistance). The appendixes comprise the following: (1) examples of required policies and procedures; (2) a chart showing related Federal Civil Service Rights laws; (3) a copy of the reporting form; and (4) the text of S. 118.13, Wisconsin Statutes. (FMW)

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Pupil Nondiscrimination Guidelines

IMPLEMENTING S.118.13 OF THE WISCONSIN STATUTES AND PI 9 OF THE WISCONSIN ADMINISTRATIVE CODE

WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION / HERBERT J. GROVER, STATE SUPERINTENDENT

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Pupil Nondiscrimination Guidelines

Implementing
S. 118.13 of Wisconsin Statutes
and PI 9 of the Wisconsin Administrative Code

Wisconsin Department of Public Instruction
Herbert J. Grover, State Superintendent

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The Department of Public Instruction does not discriminate on the basis of race, color, religion, sex, national origin, age, or handicap.

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Foreword

That equity in our schools is essential for true educational excellence is an accepted principle in Wisconsin.

Support for implementing equity as a critical component of achievement-oriented, reality-based education is increasingly strong. It comes from the Legislature, from business and industrial leaders, from community organizations, from parents, and from the school districts themselves. Consequently, the climate in Wisconsin has never been so right for demonstrating that creating equitable learning environments can significantly improve schools' effectiveness

Wisconsin is recognized nationally for its commitment to fairness in the workplace. The pupil nondiscrimination statute serves as students' introduction to the rights and responsibilities they will enjoy as adults. In addition, the statute provides the support that school districts need to continue their efforts to make the direct connection between equity and achievement and to ensure the quality education we all want for our children.

Capitalizing on this opportunity demands continued leadership, focus of effort, coordination of resources, and provision of technical assistance.

It is with enthusiasm, then, that the Department of Public Instruction joins in partnership with local school districts to support equal educational opportunity.

Herbert J. Grover
State Superintendent

Overview

Wisconsin has a national reputation as an enlightened government at the state, county and municipal levels, and its public schools are ranked among the best in the nation.

One reason for this high ranking is the state's commitment to education for all students, starting with legislation enacted by the territorial governing bodies in the 1800s.

The purpose of this publication is to strengthen that commitment by helping Wisconsin's public schools build on the policies, practices, and procedures long in use to ensure equal educational opportunity.

History of Pupil Nondiscrimination

When the Wisconsin Constitution was adopted in 1848, it called for free schools open to all students of all races and religious beliefs, even though slavery was still legal in other states. Many of the territories granted statehood during that period either established segregated public schools or excluded blacks, Indians, Hispanics, and other non-whites from the schools.

In 1933, the Legislature prohibited discrimination in the hiring of teachers based on race, nationality, political, or religious affiliation. In 1949, it became illegal for a school board to exclude any student from public school based on religion, nationality, color or race or to maintain separate schools to achieve exclusion.

The implementation of several federal laws and decisions in federal courts prompted a revision of state statutes. The federal Civil Rights Act prohibits discrimination on the basis of race, color, or national origin. Title IX of the Education Amendments of 1972 outlaws sex discrimination in the programs or activities of any school receiving federal funds, and the federal Rehabilitation Act of 1973 promotes and expands educational opportunities for the handicapped. Section 504 of the latter act and its regulations provide equal educational opportunity for "otherwise qualified handicapped individuals in all educational programs."

On a state level, s. 118.13, Wis. Stats., was revised in 1975 to prohibit discrimination on the basis of sex, race, religion, physical condition, developmental disability, or national origin in admission and in "obtaining the advantages, privileges and courses of study in public schools throughout the state." In 1977, another change gave the state superintendent of public instruction the authority to promulgate rules to implement this section of the statute. It also banned sex discrimination in athletics. A provision was added in 1983 requiring school districts to make program modifications and services available to pregnant and school-age mothers to enable them to continue their education.

In the 1985 budget bill, s. 118.13 was repealed, and a new and more comprehensive statute was created in its place. The new statute requires the state superintendent to promulgate rules for implementation. It emphasizes a shift to local resolution of complaints with appeal to the state rather than to federal and court resolution as had happened previously.

The Present

The new s. 118.13, Wis. Stats., bans pupil discrimination in any curricular, extracurricular, pupil services, recreational, or other program or activity on the basis of sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability.

Administrative rules implementing the law took effect on November 1, 1986, after extensive input from education and other groups. These rules require that by August 1, 1987, each district review and, if necessary, revise its policies on nondiscrimination; ensure it has a process to resolve complaints locally; and follow through on compliance reporting procedures. While this process may take a concentrated effort by the school boards, administrators, teachers, and the community, once completed, the new procedures offer many long-term benefits.

Each district will find that the new locally established policies and procedures will accomplish the following:

- enhance the school district's goals for excellence and achievement by all students
- create local guidelines which are orderly and allow for complaints to be resolved administratively initially at the local level rather than through the courts or at the federal level
- resolve many of the ambiguities associated with civil rights and nondiscrimination laws as they relate to pupils and schools
- provide an opportunity for involvement of the general public in understanding and helping create local guidelines of benefit to both the school and community

The administrative rules require that each school district annually submit a compliance report to the state superintendent. The state superintendent must submit a compliance review to the Legislature biennially. The state superintendent must also hear appeals of school board decisions which are not resolved locally under s. 118.13, Wis. Stats., and ch. PI 9, Wis. Admin. Code, as provided in ch. PI 1. The Department of Public Instruction (DPI) is required to provide technical assistance to school districts at their request to help implement the statute and rules.

Administrative Rule

(Effective 11/1/87)

PI 9.01 DISCRIMINATION PROHIBITED. This chapter establishes procedures for compliance with s. 118.13, Stats., which provides that no person may be denied admission to any public school or be denied participation in, be denied the benefits of or be discriminated against in any curricular, extracurricular, pupil services, recreational or other program or activity because of the person's sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability. This chapter does not intend to prohibit the provision of special programs or services based on objective standards of individual need or performance to meet the needs of pupils, including gifted and talented, special education, school age parents, bilingual bicultural, at risk and other special programs; or programs designed to overcome the effects of past discrimination.

PI 9.02 DEFINITIONS. In this chapter:

(1) "Bias" means an inclination for or against a person or group of persons based, in whole or in part, on sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability, that inhibits impartial or objective judgment affecting pupils.

(2) "Board" means the school board in charge of the public schools of a district.

(3) "Curricular program or activity" means a particular course or courses of study within the scope of the curriculum.

(4) "Department" means the Wisconsin department of public instruction.

(5) "Discrimination" means any action, policy or practice, including bias, stereotyping and pupil harassment, which is detrimental to a person or group of persons and differentiates or distinguishes among persons, or which limits or denies a person or group of persons opportunities, privileges, roles or rewards based, in whole or in part, on sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability, or which perpetuates the effects of past discrimination.

(6) "Extracurricular program or activity" means an activity not falling within the scope of the curriculum and includes all organized pupils' activities which are approved or sponsored by the school board whether on or off school property.

(7) "National origin" includes pupils whose dominant language is other than English.

(8) "Pregnancy" includes any pregnancy related condition.

(9) "Pupil harassment" means behavior toward pupils based, in whole or in part, on sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability which substantially interferes with a pupil's school performance or creates an intimidating, hostile or offensive school environment.

(10) "Pupil services" means a program of pupil support services and activities including counseling, health and nursing, psychological and social work services.

(11) "Recreational program or activity" means any leisure time activity for school age children approved or sponsored by the school board and includes city recreational programs which are administered by a school board.

(12) "Sexual orientation" has the meaning defined in s. 111.32(13m), Stats.

(13) "State superintendent" means the superintendent of public instruction for the state of Wisconsin.

(14) "Stereotyping" means attributing behaviors, abilities, interests, values and roles to a person or group of persons on the basis, in whole or in part, of their sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability.

PI 9.03 POLICIES. (1) Each board shall develop policies prohibiting discrimination against pupils. The policies shall include the following areas:

(a) Admission to any school, class, program or activity. This does not prohibit placing a pupil in a school, class, program or activity based on objective standards of individual performance or need.

(b) Standards and rules of behavior, including pupil harassment.

(c) Disciplinary actions, including suspensions and expulsions.

(d) Acceptance and administration of gifts, bequests, scholarships and other aids, benefits, or services to pupils from private agencies, organizations or persons.

(e) An instructional and library media materials selection policy consistent with s. 121.02(1)(h), Stats., and s. PI 8.01(2)(h).

(f) Methods, practices and materials used for testing, evaluating and counseling pupils. This does not prohibit the use of special testing or counseling materials or techniques to meet the individual needs of pupils.

(g) Facilities. This does not prohibit separate locker rooms, showers and toilets for males and females, but the separate facilities must be comparable.

(h) Opportunity for participation in athletic programs or activities. This does not prohibit separate programs in interscholastic athletics for males and females, but the programs shall be comparable in type, scope and support from the school district.

(i) School sponsored food service programs under 42 USC ss. 1751 et. seq.

(2) Existing board policies which meet the requirements of this chapter, including those adopted by the board in compliance with federal statutes such as Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973, may be incorporated into the policies required under this chapter. These policies shall be included in those presented for public hearing and commentary under sub.(3).

(3) The policies shall be adopted by the board following a public hearing or an opportunity for public commentary at a board meeting.

PI 9.04 COMPLAINT PROCEDURE. Each board shall:

(1) Designate an employe of the school district to receive complaints regarding discrimination under s. 118.13, Stats., and this chapter.

(2) Establish a procedure for receiving and resolving complaints from residents of the school district or aggrieved persons under s. 118.13, Stats., and this chapter, including a provision for written acknowledgement within 45 days of receipt of a written complaint and a determination of the complaint within 90 days of receipt of the written complaint unless the parties agree to an extension of time; except that:

(a) Appeals under 20 USC s. 1415 and ch. 115, Stats., relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education of a child with an exceptional educational need shall be resolved through the procedures authorized by ch. 115, subch. V, Stats.

(b) Complaints under 20 USC s. 1231e-3 and 34 CFR ss. 76.780-76.782, commonly referred to as EDGAR complaints, that the state or a subgrantee is violating a federal statute or regulation that applies to a program shall be referred directly to the state superintendent.

(3) Notify a complainant of the right to appeal a negative determination by the school board to the state superintendent and of the procedures for making the appeal.

PI 9.05 PUBLIC NOTICE. Each board shall:

(1) Annually provide public notice of board policies on pupil nondiscrimination including the name and address of the designated employe under s. PI 9.04(1) and the complaint procedure under s. PI 9.04(2). The notice shall be a class 1 legal notice under ch. 985, Stats.

(2) Include a pupil nondiscrimination statement on pupil and staff handbooks, course selection handbooks and other published materials distributed to the public describing school activities and opportunities.

(3) Include the complaint procedure in pupil and staff handbooks.

PI 9.06 EVALUATION. (1) In order to provide the information necessary for the state superintendent to report on the compliance with s. 118.13, Stats., as required under s. 118.13(3)(a)3, Stats., each board shall evaluate the status of nondiscrimination and equality of educational opportunity in the school district at least once every 5 years on a schedule established by the state superintendent. The evaluation shall include the following:

(a) School board policies and administrative procedures.

(b) Enrollment trends in classes and programs.

(c) Methods, practices, curriculum and materials used in instruction, counseling, and pupil assessment and testing.

(d) Trends and patterns of disciplinary actions, including suspensions, expulsions, and handling of pupil harassment.

(e) Participation trends and patterns and school district support of athletic, extracurricular and recreational activities.

(f) Trends and patterns in awarding scholarships and other forms of recognition and achievement provided or administered by the school district.

(g) School district efforts to achieve equality of educational opportunity and nondiscrimination.

(2) The board shall provide an opportunity for participation in the evaluation by pupils, teachers, administrators, parents and residents of the school district.

(3) The board shall prepare a written report of the evaluation which shall be available for examination by residents of the school district.

PI 9.07 REPORTING. Each board shall submit the following to the department:

(1) Copies of policies and procedures under s. 118.13(2)(a), Stats., and ss. PI 9.03 and 9.04, and notices under s. PI 9.05, upon request of the state superintendent.

(2) An annual compliance report, including the name of the designated employe under s. PI 9.04(1); and the number of complaints received during the year, a description of each complaint and its status.

(3) A copy of the written report of the evaluation conducted under s. PI 9.06.

NOTE: Form PI 1197, Compliance Report – Pupil Nondiscrimination, may be obtained from Department of Public Instruction, Division for Handicapped Children and Pupil Services, P.O. Box 7841, Madison, WI 53707.

PI 9.08 STATE SUPERINTENDENT. (1) The state superintendent shall:

(a) Decide appeals of board decisions made under s. 118.13(2)(a), Stats., and this chapter as follows:

1. The complainant may appeal a negative determination of the board to the state superintendent within 30 days of the board's decision.

2. The complainant may appeal directly to the state superintendent if the board has not complied with the provisions of s. PI 9.04(2).

3. The state superintendent shall utilize the procedures under ch. PI 1 to resolve appeals under this subsection.

4. If the state superintendent finds that the board violated s. 118.13, Stats., or this chapter, the state superintendent shall issue an order to comply which includes a requirement that the board submit a corrective action plan, including a schedule, within 30 days of the board's receipt of the order.

5. The state superintendent shall refer a complaint to the board for resolution if it has not been filed with the board or if the complaint is currently under consideration by the board under the complaint procedure required by s. PI 9.04.

(b) Include in the department's biennial report under s. 15.04(1)(d), Stats., information on the status of school district compliance with s. 118.13, Stats., and school district progress toward providing reasonable equality of educational opportunity and nondiscrimination for all pupils in Wisconsin.

(2) The state superintendent may:

(a) Provide technical assistance to school districts.

(b) Review the policies established by the board under ss. PI 9.03 and 9.04.

(c) Review school district programs, activities and services to determine whether boards are complying with this chapter and with s. 118.13, Stats. The department may review school districts on a schedule which corresponds with the audit of compliance with school district standards under s. 121.02(2), Stats. The scheduling of reviews does not prohibit the state superintendent from conducting an inquiry into compliance with this chapter upon receipt of a complaint.

SECTION 2. INITIAL APPLICABILITY.

(1) By August 1, 1987, boards shall submit the first annual report to the department as required under s. PI 9.07(2) and provide public notice as required under s. PI 9.05.

(2) The policies required under ss. PI 9.03 and 9.04 shall be developed before August 1, 1987. Complaints of discrimination received by the board prior to August 1, 1987, may be handled by any existing complaint procedures provided that the time requirements of s. PI 9.04 are met. In the absence of any board complaint procedure or if the time requirements are not met, the complainant may appeal directly to the state superintendent.

(3) Negative decisions of the board under sub. (2) may be appealed to the state superintendent under s. PI 9.08(1)(a).

Additional Definition of Terms

Athletic programs or activities. Any organized competitive sports competition, approved or sponsored by the school board, between schools (interscholastic) or within schools (intramural).

Complainant. Any person eligible to file a complaint under s. 118.13, Wis. Stats. and ch. PI 9, Wis. Admin. Code; i.e., a resident of the district or aggrieved person.

Pregnancy. Any pregnancy-related condition such as pregnancy, child birth, false pregnancy, termination of pregnancy or recovery therefrom, as defined in Title IX of the Education Amendments of 1972.

School-sponsored food service programs. Any food service program provided by the district under 42 USC ss. 1751 et.seq., including school-lunch programs, school breakfast programs, special milk programs, and pre-school food programs.

Sexual orientation. Having a preference for heterosexuality, homosexuality or bisexuality; having a history of such preference or being identified with such preference; as defined in s. 111.32(13m), Wis. Stats.

Meeting PI 9, Wis. Admin. Code

School districts may assure compliance with policy and procedural requirements by comparison to the following examples of documentation. Please note that other documents may also provide proof of compliance; this list is not exhaustive. Equally important to compliance is the implementation of policies and procedures.

PI	Requirement	Example of Documentation
9.03(1)	**Develop policies prohibiting discrimination against pupils.**	• Complete policy adopted by school board. See Appendix for sample that meets requirements of the rule.
9.03(3)	**Provide a public hearing or an opportunity for public commentary at a board meeting.**	• Notice of hearing and/or minutes of board meeting.
9.04(1)	**Designate an employee of the school district to receive complaints.**	• Minutes of board meeting at which employee was designated.
9.04(2)	**Establish a procedure for receiving and resolving complaints.**	• Copy of the complaint resolution. See Appendix for sample that meets requirements of the rule.

PI	Requirement	Example of Documentation
9.04(3)	**Notify a complainant of the right to appeal a negative determination by the school board to the state superintendent and of the procedures for making the appeal.**	• Copy of letter of notification of right to appeal or copy of complaint form containing notice of right to appeal. • Copy of grievance procedure containing right to appeal information. See Appendix for sample procedure.
9.05(1)	**Provide annual public notice of board policies on pupil nondiscrimination. Ch. 985, Wis. Stats., notice shall be a legal notice.**	• Class 1 legal notice as defined in ch. 985, Wis. Stats.
9.05(2)	**Include pupil nondiscrimination statement on pupil and staff handbooks, course selection handbooks, and other published materials distributed to the public describing school activities and opportunities.**	• Copies of pupil and staff handbooks, course selection manuals, and other published materials with statement. See Appendix for sample nondiscrimination statement.
9.05(3)	**Include the complaint procedure in pupil and staff handbooks.**	• Copies of staff and pupil handbook with procedure.
9.06(1)	**Evaluate the status of discrimination and equality of educational opportunity in the district at least once every 5 years on a schedule established by the state superintendent.**	• Copy of evaluation report that includes required elements. DPI is developing an assessment guide to assist districts in evaluation.
9.06(2)	**Provide an opportunity for participation in the evaluation by pupils, teachers, administrators, parents, and residents of the school district.**	• Copy of notice announcing evaluation and inviting participation by required groups.
9.06(3)	**Prepare a written report of the evaluation which shall be available for examination by residents of the school district.**	• Copy of evaluation report.
9.07(1)	**Upon request of the state superintendent, submit the following to DPI: Copies of nondiscrimination notices, policies, and complaint procedures.**	• Documentation may be required upon request of state superintendent.
9.07(2)	**Submit an annual compliance report to DPI.**	• Copy of annual report. See Appendix for Form PI-1197, Compliance Report–Pupil Nondiscrimination.

Questions and Answers

1. **Who will develop the school's policies and procedures?**
   Each board shall develop policies following a public hearing or an opportunity for public commentary at a board meeting. This is outlined in PI 9.03(1) and PI 9.03(3). The task may be delegated to a committee for approval by the board. Also see Question 4. The district administrator could also be assigned to develop local administrative rules to implement local policies prohibiting pupil discrimination.

2. **What shall these policies contain?**
   A district's policies shall contain language prohibiting discrimination against pupils on the basis of sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability in the following areas: admissions; standards and rules of behavior, including pupil harassment; disciplinary actions; acceptance and administration of gifts, bequests, and scholarships to pupils from private agencies, organizations, or persons; methods, practices, and materials used for testing, evaluating, and counseling pupils; facilities; opportunities for participation in athletic programs or activities; and school-sponsored food service programs. This is outlined in PI 9.03(1)(a) through (i). In addition, the board shall adopt instructional and library media materials selection policies stating that instructional materials, texts and library services reflect the cultural diversity and pluralistic nature of American society. This is outlined in s. 121.02(1)(h), Wis. Stats., and PI 9.03(1)(e) and PI 8.01(2)(j). Appendix A contains sample policies.

3. **What format should a school district use to evaluate the status of nondiscrimination and equality of educational opportunity at least once very 5 years, as required by PI 9.06(1)?**
   An instrument designed to help districts assess local status of compliance is being developed by DPI. Because of the August 1 reporting date, the guidelines were written first.

4. **What are the requirements for public involvement in policy development?**
   Nondiscrimination policies adopted by the board shall follow a public hearing or an opportunity for public commentary at a board meeting, as outlined in PI 9.03(3). Members of the public may also participate in the development of nondiscrimination policies by attending school board meetings and participating when the policies are discussed.

5. **What structure might a school district use to implement the statute and the administrative code?**
   An effective structure in many Wisconsin districts is the "equity committee." The committee, composed of staff, parents, and students, may be chaired by the employee designated to receive complaints under s. 118.13, by the Title IX coordinator, by the Section 504 coordinator, or other staff members interested in equity. The committee may develop a timeline, set goals for implementation, review present policies and procedures, and make suggestions for staff development activities. In some districts, the committee reports annually or semi-annually to the school board; in others, the committee reports more frequently to the district administrator.

6. **Does this law protect school district employees?**
This law does *not* affect employees. It is a "pupil" nondiscrimination law. Employees are already similarly protected from on-the-job discrimination by Wisconsin's fair employment laws, s. 111.32, Wis. Stats.

7. **What constitutes a "public hearing or an opportunity for public commentary at a board meeting" as required under PI 9.03(2) for adoption of policies?**
A district may decide to hold a separate public meeting to provide for public comment on its policies prohibiting pupil discrimination, although a separate meeting is not required. The board may seek public comment at its regular meeting, although the public should be informed in a timely fashion of this agenda item.

8. **What are the equity issues concerning the acceptance of gifts, bequests, and scholarships?**
As a general rule, gifts, bequests, and scholarships may not be awarded to students by public or private agencies, organizations, or persons in a way that discriminates against students based on their sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability.

Since separate interscholastic athletic teams for boys and girls are legal when equal opportunity is available to each sex, nothing in this law prevents the awarding of sex-restricted athletic scholarships. However, when sex-restricted scholarships are awarded, such scholarships must be available in reasonably equivalent numbers and value to members of both sexes. This does not prohibit the awarding of restricted scholarships outside the school without the school's assistance.

Title IX of the federal Education Amendments of 1972 allows school districts to administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance made to members of one sex, if the assistance is established by *legal instrument* (e.g., a will, trust, or bequest) and the *overall effect* of such sex-restricted scholarships does not discriminate on the basis of sex. In order to comply with the latter condition, the school district must first select students for financial assistance on the basis of nondiscriminatory criteria, such as a showing of need or scholastic standing. The school district may then award sex-restricted scholarships to students previously selected for assistance. Students cannot be denied scholarships, fellowships, or other forms of financial assistance because the awards were originally designated for persons of the other sex.

9. **How does the rule affect the selection and evaluation of instructional materials?**
According to PI 9.03(1)(e), the district's instructional and library media materials selection policy must be consistent with state statutes and rules requiring collections to be current and balanced and to depict in an accurate and unbiased way the cultural diversity and pluralistic nature of American society. This is contained in s. 121.02(1)(h) and PI 8.01(2)(j). The district must select up-to-date instructional materials that include images of males, females, blacks, whites, Asians, Hispanics, Native Americans, people with disabilities, etc. Any collection of instructional material could be challenged under PI 9.03(1)(e) if, for example, the material included

information about white males exclusively, for the collecting would then violate the requirement of "cultural diversity."

Contact DPI consultants for instruments designed to assess bias in instructional materials.

10. **How do the statute and rules affect the methods, practices, and materials used in testing students?**
Methods, practices and materials used in testing students may not discriminate on the basis of race, sex, national origin, ancestry, pregnancy, creed, marital or parental status, sexual orientation or physical, mental, emotional, or learning disability. However, special tests designed to meet the *individual needs* of students are allowed. The student's individual education program (IEP) should be used as the basis for decisions concerning participation in a competency-based testing program, or any other testing program. For example, a visually impaired or hearing impaired student may be required to take an achievement test at a time and place designed to meet the student's specific needs. The district does not have to administer the test to him or her in a large group with other students. See PI 9.03(1)(f) for additional information.

11. **Do the statute and rules affect counseling and guidance?**
Any methods, practices, and materials used in counseling pupils shall not discriminate on the bases listed in the statute. This section does not, however, prevent the use of counseling materials or techniques to meet the individual needs of pupils. For example, a counselor may have pamphlets in the guidance office that offer advice to pregnant teens. All of the pamphlets may include a discussion of contraceptives violating some students' creed or religious beliefs. Nothing in the rule prohibits the counselor from sharing the pamphlets with a student who expresses a desire or has a need to see them.

12. **What do the statute and rules mean for interscholastic athletic programs?**
The opportunity to participate in interscholastic athletics must exist for all students. Separate programs for males and females are allowed, but the separate programs must be comparable in type, scope, and support from the school district. PI 9.03(1)(h) provides additional information. Programs are considered comparable in scope when they satisfy the interests and abilities of the participants. Comparable support does not mean equal dollar support; it means support that satisfies the needs of the program, based on student interest and ability.

13. **How about physical education instruction?**
Pupils cannot be discriminated against in admission to physical education classes on the basis of race, sex, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional, or learning disability. But pupils may be placed in a particular physical education class or activity based on objective standards of individual performance or need. See PI 9.03(1)(a) for reference.

Single sex classes for boys or girls are illegal, except when elective classes (by chance) are selected only by students of one sex. Boys and girls may be separated within classes during participation in contact sports such as football, basketball, wrestling, boxing,

ice hockey, and speedball. Although skill practice in those sports must be coeducational, nothing in the law requires such separation.

Students legally may be grouped according to skill, strength, or other factors pertinent to a given activity. However, grouping students for all physical education on the basis of one test, such as a general fitness test, is inappropriate and illegal.

Handicapped students must be allowed to participate in regular physical education to the extent of their ability. The IEP of some handicapped students may require a specially designed course of instruction as provided under PL 94-142 (the Education for All Handicapped Children Act, 20 USC s. 1401, et. seq.).

PI 9 allows separate locker rooms, showers, and toilets for males and females. The separate facilities, however, must be comparable in terms of space, number of lockers, showers, and other locker room facilities.

14. **What other school programs could be affected by pupil nondiscrimination laws and regulations?**
Under PI 9.03(1)(i), school-sponsored food service programs must be operated without discrimination against pupils as required by federal food service guidelines. And the school district's disciplinary policies, including rules governing suspensions and expulsions, must be written and carried out so that no student or group of students is discriminated against on the bases listed in the statute.

15. **Are there implications for specific courses such as vocational education or advanced courses, in which enrollment is typically not balanced by sex, race, national origin, or handicap?**
PI 9 allows students to be placed in a class, program, or activity based on objective standards of individual performance or need. A group of handicapped students could be placed in a vocational education section together in order to receive specialized instruction if so required by their individualized education program. However, policies that require blanket segregation of vocational education classes by race, sex, national origin, or handicap would be prohibited because the classes would not be based on individual needs but on discriminatory distinctions. The enrollment of limited English proficient students in EEN classes on the basis of misclassification of an English language deficiency is an example of such discriminatory distinction.

Enrollment in advanced courses may be based on individual performance also. A district may require students to take and pass a prerequisite course before allowing them to enroll in an advanced class. The prerequisite, however, must be open to all students.

16. **How may the board provide an opportunity for participation in the evaluation by pupils, teachers, administrators, parents, and residents of the school district as required in PI 9.06(2)?**
Since this evaluation must take place within the next five years rather than immediately, the board may find it more efficient to wait until the evaluation guide is completed by the DPI. The district may, however, want to establish an "Equity Committee" which includes representatives of the above groups to assist in completion of the reporting form.

17. **What are the state superintendent's responsibilities regarding s. 118.13, Wis. Stats.?**

The state superintendent decides appeals of school board discrimination decisions. The state superintendent is required under PI 9.08(1) to submit information on the status of school district compliance with this statute to the legislature in the department's biennial report. Technical assistance must also be provided to assist in complying with this statute, as a district requests.

18. **What are the DPI's reporting responsibilities to the legislature concerning the status of school district compliance with s. 118.13, Wis. Stats., and school district progress toward providing reasonable equality of educational opportunity and nondiscrimination for pupils in Wisconsin?**

In its biennial report to the Legislature, the DPI must include information on the status of school district compliance with the statute and district progress toward providing equal educational opportunity.

19. **Can complainants appeal to the state superintendent when they feel the school board has not complied with the provisions of PI 9.04(2)?**

Complainants may appeal directly to the state superintendent if the board has not complied with the provisions of PI 9.04(2) by not having a complaint procedure available or by not reaching a determination in 90 days of receipt of a written complaint.

20. **What procedure does the state superintendent utilize to resolve complaints under PI 9.08(1)(a) 1 and 2? Can the state superintendent's decision be appealed?**

The state superintendent is required to utilize the procedures under PI 1 to resolve complaints. As of January, 1987, PI 1 is being revised, so the current code is still in effect. Under the current procedures, the state superintendent may investigate the complaint or try to resolve the complaint through conciliation. If after an investigation the state superintendent finds probable cause to believe s. 118.13, Wis. Stats., has been violated, the state superintendent may again try to resolve the complaint through conference or conciliation. If that process is unsuccessful, the state superintendent would conduct an evidentiary hearing and issue a formal decision, as provided by PI 1.05, Wis. Admin. Code. The final decision issued after the evidentiary hearing would be subject to judicial review in circuit court under Chapter 227, Wis. Stats.

21. **What procedure does the state superintendent follow if he/she receives a complaint that has not been filed with the school board or if the complaint is currently under consideration by the school board?**

The state superintendent shall refer a complaint back to the school board for resolution if it has not been filed with the school board or if the complaint is currently under consideration by the board. See PI 9.08(1)(a)(5), Wis. Admin. Code.

22. **What services may the state superintendent provide to school districts to assist them in achieving equity goals?**
The state superintendent may provide technical assistance to school districts. This includes assistance in policy development, staff inservice, review of district procedures, and other consulting services requested by the school district.

DPI is preparing an assessment instrument to assist in the five-year evaluation.

23. **How can a school district combine federal and state requirements?**
See Appendix A for examples of policies that meet both federal and state requirements.

24. **How does this rule apply to nonresident students, such as EEN students in a consortium arrangement, tuition students, or Chapter 220 students?**
A nonresident student may be an aggrieved party and has a right to file a complaint with the school board in which the alleged violation occurs.

25. **Does the statement of nondiscrimination used by DPI meet the requirements of s. 118.13?**
The DPI must use the statement in those areas that provide direct programming to students. For the most part, however, the department's statement meets the requirements for employment laws only.

26. **How does this complaint procedure differ from EDGAR complaint process and special education appeals?**
EDGAR complaints and special education appeals are separate from s. 118.13 discrimination complaints and are governed by different procedures.

If a person is concerned about the identification, evaluation, or educational placement of a child with exceptional educational needs, or the provision of a free appropriate public education to a child with exceptional educational needs, then a special education appeals should be filed. Special education appears are governed by ch. 115, Wis. Stats., 20 USC s. 1415, and 34 CFR 300.506-.513.

If someone believes the state or a local educational agency is violating a federal statute or regulation concerning the provision of special education services, then an EDGAR complaint may be filed with the state superintendent. EDGAR complaints are processed under 20 USC s. 1231e-3 and 34 CFR ss. 76.780-.782.

Each complaint will have to be looked at individually to determine which procedure is most appropriate.

27. **What does the district do about complaints filed prior to August 1, 1987?**
Complainants should use a district's existing grievance procedures so long as they meet the specified time frame in PI 9.

DPI Resources

Complaint Resolution. Questions concerning complaints or appeals filed in accordance with PI 1 under s. 118.13, Wis. Stats., should be directed to:

Division for Handicapped Children and Pupil Services
Victor J. Contrucci, Assistant Superintendent
(608) 266-1649

Program Review and Compliance Section
Nancy Holloway, Chief
(608) 266-2841

Dorothy LePage, Program Compliance Consultant
(608) 266-7292

Technical Assistance. When seeking clarification of the statute and rule, ideas for implementation, provision of training, print and audiovisual resources, or other assistance *unrelated to an appeal which has been officially filed with the state superintendent*, contact the following:

Division for Management and Budget
Gary K. Johnson, Assistant Superintendent
(608) 266-3903

Bureau for Equal Educational Opportunity
John Strother, Director
(608) 266-9353

Alan Caldwell, National Origin Consultant
(608) 267-2283

Melissa Keyes, Sex Equity Consultant
(608) 267-9157

Addie E. Pettaway, Race Equity Consultant
(608) 266-0043

Ellen M. Ryan, Education Consultant
(608) 267-9142

Division for Instruction Services
John T. Benson, Assistant Superintendent
(608) 266-3361

Bureau for Achievement Testing
Tom Stefonek, Director
(608) 266-1782

John Bell, District Technical Assistance Consultant
(608) 267-9264

Bureau for Program Development
Arnold M. Chandler, Director
(608) 266-2630

Gordon O. Jensen, Physical Education Consultant (athletics)
(608) 266-3615

David DeSoto, Migrant Education Consultant
(608) 267-7338

Ezequiel Vargas, Bilingual Education Consultant
(608) 267-9234

Bureau for Vocational Education
Richard Dignan, Director
(608) 267-9244

Barbara Bitters, Vocational Equity/Single Parent Consultant
(608) 266-9368

Steven Gilles, Vocational/Special Education Consultant
(608) 267-9256

Division for Handicapped Children and Pupil Services
Victor J. Contrucci, Assistant Superintendent
(6098) 266-1649

Bureau for Children with Physical Needs
Betty J. Rowe, Director
(608) 266-3886

Bureau for Exceptional Children
Paul Halverson, Director
(608) 266-1781

Bureau for Pupil Services
William J. Erpenbach, Director
(608) 266-8960

I. Lorraine Davis, School Social Work Services and
School-Age Mothers Program Consultant
(608) 266-7921

Pam Wilson, Counseling and Guidance Consultant
(608) 266-9677

Division for Library Services
Leslyn Shires, Assistant Superintendent
(608) 266-2205

Bureau for Instructional Media and Technology
Richard J. Sorensen, Acting Director
(608) 266-1965

Division for School Financial Resources and Management Services
Richard Nelson, Assistant Superintendent
(608) 266-3851

Bureau for Food and Nutrition Services
Edward J. Post, Director
(608) 266-3509

Appendixes

A. Examples of Required Policies and Procedures
B. Related Federal Civil Rights Laws
C. Reporting Form
D. S. 118.13, Wis. Stats.

Appendix A

Examples of Required Policies and Procedures

Nondiscrimination Policy

(To be adopted by school board
and included in district policy manual.)

The Smithville School District is committed to equal educational opportunity for all students in the district.

It is the policy of the Smithville School District, pursuant to s. 118.13, Wis. Stats., and PI 9, that no person, on the basis of sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional, or learning disability, may be denied admission to any school in this district or be denied participation in, be denied the benefits of, or be discriminated against in any curricular, extracurricular, pupil services, recreational, or other program.

This policy also prohibits discrimination under related federal statutes, including Title VI of the Civil Rights Act of 1964 (race and national origin), Title IX of the Education Amendments of 1972 (sex), and Section 504 of the Rehabilitation Act of 1973 (handicap).

It shall be the responsibility of the (designated employee) to examine existing policies and develop new policies where needed to ensure that the Smithville School District does not discriminate pursuant to federal and state law. The (designated employee) shall ensure that an employee is designated annually to receive complaints filed under s. 118.13, Wis. Stats., PI 9, Wis. Admin. Code, Title IX of the Education Amendments, and Section 504 of the Rehabilitation Act of 1973. That employee shall assure adoption of a complaint procedure to resolve complaints alleging violation of these laws, assure that an evaluation of the district's compliance with s. 118.13, Wis. Stats. is completed every five years under PI 9, Wis. Admin. Code and submit Form PI-1197 to the Department of Public Instruction annually.

Note: In addition to adopting this sample policy, each district should examine board policies to ensure that they contain a statement of nondiscrimination, a procedure for complaint resolution, and the name of the district employee who will receive complaints. Specific policies that should be examined include those addressing admissions to schools, classes, programs, and activities; standards and rules of behavior; pupil harassment; suspensions and expulsions; acceptance of gifts, bequests, scholarships, and other aids, benefits, or services to pupils; instructional and library media materials selection; testing evaluation and counseling services; facilities; opportunities for participation in athletic programs or activities; school-sponsored food service programs. If a district does not have a policy addressing a specific area listed above, one should be developed.

Examples of Required Policies and Procedures

Public Notification of Nondiscrimination Policy

(Class 1 Legal Notice to be published in area newspaper at least once annually.)

Example 1

It is the policy of the Smithville School District that no person may be denied admission to any public school in this district or be denied participation in, be denied the benefits of, or be discriminated against in any curricular, extracurricular, pupil service, recreational, or other program or activity because of the person's sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability or handicap as required by s. 118.13, Wis. Stats. This policy also prohibits discrimination as defined by Title IX of the Education Amendments of 1972 (sex), Title VI of the Civil Rights Act of 1964 (race and national origin), and Section 504 of the Rehabilitation Act of 1973.

The district encourages informal resolution of complaints under this policy. A formal complaint resolution procedure is available, however, to address allegations of violations of the policy in the Smithville School District.

Any questions concerning this policy should be directed to:

Sarah Hall
Director of Instruction
Central Administration Office
Smithville School District
Smithville, Wisconsin 53700
(608) 555-1234

(Alternate for last paragraph above)

Any questions concerning s. 118.13, Wis. Stats., or Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex, should be directed to:

Sarah Hall
Title IX Coordinator
Central Administration Office
Smithville School District
Smithville, Wisconsin 53700
(608) 555-1234

Inquiries related to Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap, should be directed to:

Janet Brown
Section 504 Coordinator
Central Administration Office
Smithville School District
Smithville, Wisconsin 53700
(608) 555-1234

Short Version of Statement
(To be included in staff and pupil handbooks, course selection handbooks, and other published materials distributed to the public describing school activities and opportunities)

The _____ District does not discriminate against pupils on the basis of sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability or handicap in its education programs or activities. Federal law prohibits discrimination in employment on the basis of age, race, color, national origin, sex, or handicap.

Note to Wisconsin school districts: The Wisconsin Fair Employment Law also prohibits discrimination in employment on the basis of creed, marital status, ancestry, arrest record or conviction record, or sexual orientation. See s. 111.31, et. seq.

Examples of Required Policies and Procedures

Short Version of Statement and Complaint Procedure Reference

(To be included in staff and pupil handbooks.)

The _____ District does not discriminate against pupils on the basis of sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability or handicap in its education programs or activities. Federal law prohibits discrimination in employment on the basis of age, race, color, national origin, sex, or handicap.

The district encourages informal resolution of complaints under this policy. If any person believes that _____ School District or any part of the school organization has failed to follow the law and rules of s. 118.13, Wis. Stats., or in some way discriminates against pupils on the bases listed above, he/she may bring or send a complaint to the administration office at the following address: _____

_____

Step 1 A written statement of the complaint shall be prepared by the complainant and signed. This complaint shall be presented to the district employee designated to receive complaints. That employee shall send written acknowledgment of receipt of the complaint within 45 days.

Step 2 A written determination of the complaint shall be made by the board within 90 days of receipt of the complaint unless the parties agree to an extension of time; appeals under 20 USC s. 1415 and ch. 115, Wis. Stats., relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education of a child with an exceptional educational need shall be resolved through the procedures authorized by ch. 115, subch. V, Wis. Stats. Complaints under 20 USC s. 1231e-3 and 34 CFR ss. 76.780-76.782, commonly referred to as EDGAR complaints, that the state or a subgrantee is violating a federal statute or regulation that applies to a program shall be referred directly to the state superintendent.

Step 3 If a complainant wishes to appeal a negative determination by the board, he/she has the right to appeal the decision to the state superintendent within 30 days of the board's decision. In addition, the complainant may appeal directly to the state superintendent if the board has not provided written acknowledgment within 45 days of receipt of the complaint or made a determination within 90 days of receipt of the written complaint. Appeals should be addressed to: State Superintendent, Wisconsin Department of Public Instruction, 125 South Webster Street, P.O. Box 7841, Madison, Wisconsin 53707-7841.

Step 4 Discrimination complaints on some of the above bases may also be filed with the federal government at the Office for Civil Rights, U.S. Department of Education, 300 South Wacker Drive, 8th Floor, Chicago, Illinois 60606.

Note: The 118.13 complaint procedure does *not* apply to district employees or job applicants. Also, it does not replace the federal regulations that require a school district to have Title IX and Section 504 complaint procedures. (See page 31 for a sample Title IX/Section 504 complaint procedure.)

Complaint Procedures

Title IX (sex), Section 504 (handicap), and s. 118.13, Wis. Stats., specify that school districts adopt and publish written complaint procedures for handling discrimination complaints. Note that s. 118.13, Wis. Stats., applies only to allegations of discrimination against *pupils*, while Title IX and Section 504 apply to *both pupils and staff* and in some instances the general public.

Adopted complaint procedures must be disseminated to students, parents, employees, organizations, and others to effectively inform them about the processing of grievances. The information must be provided on a continuing basis through the distribution of written materials and/or through periodic briefings. State regulations require that s. 118.13 complaint procedures be included in pupil and staff handbooks.

In addition, written materials through which complaint procedures *may* be disseminated include:

Newspaper/newsletter articles
Memoranda
Bulletins
Pamphlets/brochures
School catalogs
Course offering booklets/curriculum guides

Periodic briefings on complaint procedures can be done in:

Regular student/parent/staff meetings
Special meetings or assemblies
Classroom presentations
Seminars

Maintenance of Complaint Records

The maintenance of complaint records is recommended for the purpose of documenting compliance. Records should be kept for each complaint filed and, at a minimum, should include:

1. The name and address of the complainant and his/her title or status.
2. The date the complaint was filed.
3. The specific allegation made and any corrective action requested by the complainant.
4. The name and address of the respondents.
5. The levels of processing followed, and the resolution, date, and decision-making authority at each level.
6. A summary of facts and evidence presented by each party involved.
7. A determination of the facts, statement of the final resolution, and the nature and date(s) of any corrective or remedial action taken.

Examples of Required Policies and Procedures

Sample Discrimination Complaint Procedure

Example

Gibbsville School District
S. 118.13, Wis. Stats.,
Pupil Discrimination Complaint Procedure

If any person believes that Gibbsville School District or any part of the school organization has failed to follow the law and rules of s. 118.13, Wis. Stats., or in some way discriminates against pupils on the basis of sex, race, color, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability, he/she may bring or send a complaint to the Administration Office at the following address: 1763 Huron Drive, Gibbsville, Wisconsin 53700.

Step 1 A written statement of the complaint shall be prepared by the complainant and signed. This complaint shall be presented to the district employee designated to receive complaints. That employee shall send written acknowledgment of receipt of the complaint within 45 days.

Step 2 A written determination of the complaint shall be made by the board within 90 days of receipt of the complaint unless the parties agree to an extension of time; appeals under 20 USC s. 1415 and ch. 115, Wis. Stats., relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education of a child with an exceptional educational need shall be resolved through the procedures authorized by ch. 115, subch. V, Wis. Stats. Complaints under 20 USC s. 1231e-3 and 34 CFR ss. 76.780-76.782, commonly referred to as EDGAR complaints, that the state or a subgrantee is violating a federal statute or regulation that applies to a program shall be referred directly to the state superintendent.

Step 3 If a complainant wishes to appeal a negative determination by the board, he/she has the right to appeal the decision to the state superintendent within 30 days of the board's decision. In addition, the complainant may appeal directly to the state superintendent if the board has not provided written acknowledgment within 45 days of receipt of the complaint or made a determination within 90 days of receipt of the written complaint. Appeals should be addressed to: State Superintendent, Wisconsin Department of Public Instruction, 125 South Webster Street, P.O. Box 7841, Madison, Wisconsin 53707-7841.

Step 4 Discrimination complaints on some of the above bases may also be filed with the federal government at the Office for Civil Rights, U.S. Department of Education, 300 South Wacker Drive, 8th Floor, Chicago, Illinois 60606.

Note: The 118.13 complaint procedure does *not* apply to district employees or job applicants. Also, it does not replace the federal regulations that require a school district to have Title IX and Section 504 complaint procedures. (See page 31 for a sample Title IX/Section 504 complaint procedure.)

Title IX/Section 504 Complaint Procedure

Example

Gibbsville School District
Discrimination Complaint Procedure

If any person believes that Gibbsville School District or any part of the school organization has inadequately applied the principles and/or regulations of Title IX (sex) and Section 504 (handicap) or in some way discriminates on the basis of sex, race, color, national origin, age, or handicap, he/she may bring forward a complaint to the Administration Office at the following address: 1763 Huron Drive, Gibbsville, Wisconsin 53700.

Informal Procedure

The person who believes he/she has a valid basis for a complaint shall discuss the concern with the local Title IX or Section 504 coordinator, who shall in turn investigate the complaint and reply to the complainant in writing within two (2) days. If this reply is not acceptable to the complainant, he/she may initiate formal procedures according to the steps listed.

Formal Complaint Procedure

Step 1 A written statement of the complaint shall be prepared by the complainant and signed. This complaint shall be presented to the local Title IX or Section 504 coordinator within five (5) business days of receipt of the written reply to the informal complaint. The coordinator shall further investigate the matters of the complaint and reply in writing to the complainant within five (5) business days.

Step 2 If the complainant wishes to appeal the decision of the local Title IX or Section 504 coordinator, he/she may submit a signed statement of appeal to the superintendent of schools within five (5) business days after receipt of the local coordinator's response to the complaint. The superintendent shall meet with all parties involved, formulate a conclusion, and respond in writing to the complaint within ten (10) business days.

Step 3 If the complainant remains unsatisfied, he/she may appeal through a signed, written statement to the school board within five (5) business days of her/his receipt of the superintendent's response in Step 2. In an attempt to resolve the complaint, the school board shall meet with the concerned parties and their representatives within 15 days of the receipt of such an appeal. A copy of the board's disposition of the appeal shall be sent by the board secretary to each concerned party within ten (10) business days of this meeting.

Step 4 If, at this point, the complaint has not been satisfactorily settled, further appeal may be made to the Office for Civil Rights, U.S. Department of Education, 300 South Wacker Drive, 8th Floor, Chicago, Illinois 60606.

Examples of Required Policies and Procedures

Sample Discrimination Complaint Form

Sample
Discrimination Complaint Form
(For Local Use)

Name _____ Date_____

Address _____

(Street)

_____

(City) (Zip)

Telephone: _____ _____

(Home) (School or work location)

Status of person filing complaint: _____ Student _____ Employee

_____ Parent _____ Other_____

Filing complaint alleging discrimination on the basis of: _____

_____

Statement of complaint (include type of discrimination charged and the specific incidents(s) in which it occurred):

_____

_____

_____

_____

_____

Signature of complainant: _____

Date complaint filed: _____

Signature of person receiving complaint: _____

Date received: _____

Submit all copies to (employee designated to receive complaints), or the immediate supervisor, or their respective secretaries. The person receiving the complaint will sign and date the complaint. One copy will be returned to the complainant, one copy will be sent to the school or department affected by the complaint, and one copy will be sent to the complaint investigation officer.

Distribution: 1st copy – Complaint investigation officer
2nd copy – School/department
3rd copy – Complainant

Notification to Complainant of Right to Appeal

(School district name)

(School district address)

I have received written determination by the school board of my complaint alleging violation of s. 118.13, Wis. Stats. I understand that I have the right to appeal a negative determination to the state superintendent within 30 days and that to make such an appeal I would contact the following:

Complaint Officer
Wisconsin Department of Public Instruction
125 South Webster Street
P. O. Box 7841
Madison, WI 53707-7841

_____
Signature of complainant

_____
Date

Distribution: 1st copy - Local employee designated to receive complaints
2nd copy - Complainant

Related Federal Civil Rights Laws

Federal Equity-Related Law	Purpose	Who Enforces/ Administers Within U.S. Dept. of Ed.	Type of Statute	Where Can It Be Found?
Title IX of the Education Amendments of 1972	Eliminate sex discrimination in education	Office for Civil Rights (OCR)	Civil rights	20 USC Sec. 1681-86
Title VI of the Civil Rights Act of 1964	Eliminate race/national origin discrimination	OCR	Civil rights	42 USC Sec. 2000d
Section 504 of the Rehabilitation Act of 1973	Eliminate disability discrimination	OCR	Civil rights	29 USC Sec. 794
Education for All Handicapped Children Act (PL 94-142)	Ensure appropriate special education and related services	Office of Special Education and Rehabilitative Services	Quasi-civil rights/ funding	20 USC Sec. 1401, *et seq.*
Title IV of the Civil Rights Act of 1964	Encourage technical assistance and training re: race, national origin, and sex equity issues	Equity Training and Technical Assistance Office	Funding	42 USC Sec. 2000c, *et seq.*
Women's Educational Equity Act	Encourage educational equity for women and girls	Women's Educational Equity Act Program	Funding	20 USC Sec. 3341, *et seq.*
Carl D. Perkins Vocational Education Act	Promote high quality voc ed programs, with particular attention to special needs populations	Office of Vocational and Adult Education	Funding	20 USC Sec. 2301, *et seq.*
Chapter I of the ECIA	Provide extra help for economically and educationally disadvantaged students	Compensatory Education Office	Funding	20 USC Sec. 3801, *et seq.*
Bilingual Education Act of 1984	Ensure equal educational opportunity for students and meet the educational needs of limited English proficient individuals	Office of Bilingual Education and Minority Language Affairs	Funding	20 USC Sec. 3221, *et. seq.*

Sample Reporting Form

D P I Wisconsin Department of Public Instruction
COMPLIANCE REPORT –
PUPIL NONDISCRIMINATION
PI-1197

The purpose of this report, as required by s. 118.13 (WI Stats.), is to assure that the school district is in compliance with Wisconsin statute and with Ch. PI 9 of the Administrative Code and to assist the State Superintendent in complying with s. 118.13(3)(a) 3 in reporting on the status of school district compliance.

INSTRUCTIONS: Attach additional documents as required.
Return to:
WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION
DIVISION FOR HANDICAPPED CHILDREN AND PUPIL SERVICES
125 SOUTH WEBSTER STREET
P. O. BOX 7841
MADISON, WI 53707-7841
By: August 1

School District Name	School District Address	District Code

Explain all "no" responses.

Yes ☐ No ☐ 1. Policies on nondiscrimination have been developed and adopted by the board as required under s. PI 9.03(1). Policies include:

A) Admissions [PI 9.03(1)(a)].
B) Standards and Rules of Behavior [PI 9.03(1)(b)].
C) Disciplinary Actions [PI 9.03(1)(c)].
D) Acceptance and Administration of Gifts, Bequests and Scholarships [PI 9.03(1)(d)].
E) Instructional and Library/Media Materials Selection [PI 9.03(1)(e)].
F) Testing, Evaluation and Counseling Methods, Practices and Materials [PI 9.03(1)(f)].
G) Facilities [PI 9.03(1)(g)].
H) Athletic Programs/Activities [PI 9.03(1)(h)].
I) School Sponsored Food Service Programs [PI 9.03(1)(i)].
J) Other _____

Yes ☐ No ☐ 2. The policies were adopted following an opportunity for public comment as required under s. PI 9.03(3).

Yes ☐ No ☐ 3. The Board has established a procedure for receiving and resolving complaints under s. 118.13, Stats. [PI 9.04(2) and (3)].

Yes ☐ No ☐ 4. The Board has designated an employe to receive complaints regarding nondiscrimination under s. 118.13, Stats., as required under s. PI 9.04(1). Please provide the following information:

Employe Name	Employe Title/Position

Employe Address	Telephone *Area/No.*

Yes ☐ No ☐ 5. The Board has provided public notice and information on pupil nondiscrimination [PI 9.05] as follows:

A) Annual Class 1 Public Notice of Nondiscrimination Policies includes name and address of designated employe and complaint procedure as required by PI 9.05(1).
B) Nondiscrimination statement appears on published materials as required by PI 9.05(2).
C) The complaint procedure is included in pupil and staff handbooks as required by PI 9.05(3).

Yes ☐ No ☐ 6. Has the school board received complaints under s. 118.13, Stats., during the preceding school year? **If yes, attach a description of each complaint and its determination.**

Yes ☐ No ☐ 7. Do you want technical assistance from the Department in meeting the requirements of this statute? [PI 9.08(2)(a)]. **Attach explanation of assistance desired.**

Signature of District Administrator	Date Signed *Mo./Day/Yr.*
▶	

S. 118.13, Wis. Stats.

118.13 Pupil discrimination prohibited. (1) No person may be denied admission to any public school or be denied participation in, be denied the benefits of or be discriminated against in any curricular, extracurricular, pupil services, recreational or other program or activity because of the person's sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability.

(2) (a) Each school board shall develop written policies and procedures to implement this section and submit them to the state superintendent as a part of its 1986 annual report under s. 120.18. The policies and procedures shall provide for receiving and investigating complaints by residents of the school district regarding possible violations of this section, for making determinations as to whether this section has been violated and for ensuring compliance with this section.

(b) Any person who receives a negative determination under par. (a) may appeal the determination to the state superintendent.

(3) (a) The state superintendent shall:

1. Decide appeals made to him or her under sub. (2)(b). Decision of the state superintendent under this subdivision are subject to judicial review under ch. 227.

2. Promulgate rules necessary to implement and administer this section.

3. Include in the department's biennial report under s. 15.045(1)(d) information on the status of school district compliance with this section and school district progress toward providing reasonable equality of educational opportunity for all pupils in this state.

(b) The state superintendent may:

1. Periodically review school district programs, activities, and services to determine whether the school boards are complying with this section.

2. Assist school boards to comply with this section by providing information and technical assistance upon request.

Section note: Ch. 418 s. 929 (55)(a), Laws of 1977; 1983 Acts 374, 412; 1965 Act 29; 1985 Act 29 s. 3043(1) provides that the state superintendent shall submit the rules required under s. 118.13(3)(a) 2 in a final draft form no later than July 1, 1986.